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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA
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9 GARRICK HARRINGTON,

CASE NO. 1:05-cv-00624-OWW-GSA PC

10 Plaintiff,

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

11 v.

(Doc. 58)

12 A. K. SCRIBNER, et al.,

13 Defendants.
14 _____/

15 Plaintiff Garrick Harrington (“Plaintiff”) is a state prisoner proceeding pro se and in forma
16 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On March 27, 2009, Plaintiff filed
17 a motion seeking the appointment of counsel, entitled as a motion for reconsideration.

18 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
19 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require an attorney to represent
20 plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern
21 District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional
22 circumstances the Court may request the voluntary assistance of counsel pursuant to section
23 1915(e)(1). Palmer v. Valdez, No. 06-15458, 2009 WL 750 274, *4 (9th Cir. Mar. 24, 2009); Rand,
24 113 F.3d at 1525.

25 Without a reasonable method of securing and compensating counsel, the Court will seek
26 volunteer counsel only in the most serious and exceptional cases. In determining whether
27 “exceptional circumstances exist, the district court must evaluate both the likelihood of success of
28 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity

1 of the legal issues involved.” Rand at 1525 (internal quotation marks and citations omitted); Palmer
2 at *4.

3 In the present case, the Court does not find the required exceptional circumstances. Even if
4 it is assumed that Plaintiff is not well versed in the law and that he has made serious allegations
5 which, if proved, would entitle him to relief, his case is not exceptional. The Court is faced with
6 similar cases almost daily. Further, the Court cannot make a determination that Plaintiff is likely to
7 succeed on the merits, and based on a review of the record in this case, the Court does not find that
8 Plaintiff cannot adequately articulate his claims. Id.

9 For the foregoing reasons, Plaintiff’s motion for the appointment of counsel, filed March 27,
10 2009, is HEREBY DENIED, without prejudice.

11
12 IT IS SO ORDERED.

13 **Dated: March 30, 2009**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE